

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
FCC Staff to Host Forum Aimed at Helping	)	WT Docket No. 11-84
Consumers Navigate Location-Based Services	)	
	)	

Chief, Wireless Telecommunications Bureau

**COMMENTS OF VERIZON WIRELESS**

Verizon Wireless supports the Joint Privacy Task Force’s stated objectives of addressing consumers’ privacy concerns while “encourag[ing] smart innovation in this space.”<sup>1</sup> Verizon Wireless is pleased to have participated in the Wireless Telecommunications Bureau’s (“Bureau”) June 28<sup>th</sup> Public Forum and respectfully submits these comments to help inform its subsequent report. As discussed below, the panelists’ presentations and discussion aptly describe the wide variety of traditional *and* non-traditional stakeholders engaged in the LBS marketplace. Wireless service providers’ inability to serve as a gatekeeper for third parties’ privacy practices underscores the merits of a uniform policy framework, under a single agency, that encompasses all LBS offerings. Moreover, that framework should promote industry-wide best practices and establish a level playing field among all participants, not prescriptive regulation.

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<sup>1</sup> See Public Notice, *FCC Staff to Host Forum Aimed at Helping Consumers Navigate Location-Based Services*, WT Docket No. 11-84, DA 11-857 (WTB rel. May 17, 2011).

**I. Wireless Internet Service Providers Cannot Serve as Gatekeepers for Third Party LBS Applications and Services.**

Verizon Wireless's own policies and practices are fully consistent with the Task Force's stated objectives. Verizon Wireless provides its customers with access to a wide variety of its own and third parties' location-based applications that offer innovative features and tools that consumers demand. For its own services and applications, such as VZ Navigator, Family Locator, and NFL Mobile, Verizon Wireless clearly discloses how it uses and collects location information in its online privacy policy and within these applications themselves.<sup>2</sup> As we describe in our policy, Verizon Wireless collects and uses location information for various service and operational purposes, such as ensuring that customers have a wireless signal to complete a call and access data, transferring a wireless call or data session across a highly diverse and complex network as a mobile user moves in and out of a geographic area covered by a particular radio antenna, maximizing network capacity and efficiency, limiting dropped calls and ineffective data transmissions and, consistent with Section 222(d) of the Communications Act, disclosure to 911 and law enforcement for 911 calls and emergency situations.

Moreover, Verizon Wireless has designed its commercial LBS offerings consistent with Section 222(f)'s requirements for the use of location information, even for situations in which the location information may not qualify as Customer Proprietary Network Information. Verizon provides meaningful notice and obtains customer consent before using individual location information for commercial purposes.

Third parties' services and applications that use Verizon Wireless's proprietary LBS Application Processing Interfaces ("LBS APIs") to access the company's Assisted

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<sup>2</sup> See <http://www22.verizon.com/privacy/>.

GPS (“A-GPS”) and “Network Cell ID” location technologies are contractually obligated to adhere to disclosure, opt-in and use requirements. Moreover, Verizon Wireless tests these applications and services for, among other things, compliance with its contractual requirements when it authorizes third parties to access its LBS APIs.

As numerous panelists and speakers at the Forum explained, however, Verizon Wireless and other Internet service providers (“ISPs”) represent only one segment of the wireless LBS industry.<sup>3</sup> Verizon Wireless has adopted an open network in which customers can access and download the applications of their choice. Through its Open Development Initiative,<sup>4</sup> device manufacturers and application developers can create and introduce (via Verizon Wireless’s network) innovative new products, applications and services directly to consumers. Many third parties, moreover, provide applications and services via other platforms, such as Apple’s App Store, Google’s Android Market, and Amazon.com. Many such applications and services, in turn, have LBS APIs that use the device’s standalone GPS, Cell ID, WiFi, or other third party location technologies, entirely independently of Verizon Wireless’s own network and location technologies. Verizon Wireless does not control these providers, or the incorporation and utilization of these third party-provided LBS APIs into their products.<sup>5</sup>

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<sup>3</sup> See, e.g., Presentation of Matt Blaze, Univ. of Pennsylvania, *Technology and Privacy in Mobile Location Services*, June 28, 2011, at 9-12 available at <http://transition.fcc.gov/presentations/06282011/matt-blaze.pdf> (describing the various parties who may have access to and use GPS-based and WiFi location technologies).

<sup>4</sup> See <http://opennetwork.verizonwireless.com/>.

<sup>5</sup> To the extent feasible, Verizon Wireless requires that its device suppliers incorporate privacy protections that give customers some control over the collection, use and sharing of location information by these third parties through features and tools available in the device’s location settings menu. Since customers can download third party applications that do not have privacy protections, however, Verizon Wireless also warns customers to use discretion when using such applications.

As a result, Verizon Wireless and other wireless ISPs simply cannot serve as gatekeepers to ensure that the policies and practices of all third party manufacturers, service providers and application developers are adequate to meet consumers' legitimate privacy interests. As discussed below, a comprehensive LBS policy framework must provide consumers with meaningful privacy safeguards while enabling innovation to continue to flourish in an environment of better, faster, and ever-increasingly open networks.

## **II. The Diversity of LBS Providers and Application Developers Warrants a Uniform Framework for Expanded Industry Best Practices.**

A uniform framework for addressing consumers' privacy concerns must consistently apply to all LBS players and practices, consistently and fairly. Such a framework must apply broadly and evenly, be flexible, and ensure that privacy protections are both robust and proportionate to the sensitivity and intended use of the data collected.<sup>6</sup>

A uniform policy framework therefore must address the market prevalence of third party platforms, as well as the location capabilities of handsets, tablets, laptops, and other consumer electronics devices, into which wireless ISPs may have limited or no visibility. Thus, as the Bureau considers what action it might recommend to further the Commission's and FTC's objectives, it should not exclusively or predominantly focus on the role of wireless ISPs in the LBS marketplace. Nor, for that matter, should the Bureau exclusively focus on the limited classes of devices and services over which the

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<sup>6</sup> See Comments of Verizon and Verizon Wireless on the Preliminary FTC Staff Report Entitled "Protecting Consumer Privacy in an Era of Rapid Change: A Proposed Framework for Businesses and Policymakers," File No. P095456, filed Feb. 18, 2011, at 1-2, available at <http://www.ftc.gov/os/comments/privacyreportframework/00428.html> ("Verizon FTC Comments").

Commission has some jurisdiction. As Verizon Wireless cautioned the FTC earlier this year, “[c]onsumers are not focused on technologies, business models, or service categories; they are focused on the privacy protections afforded their data, as well as [having] transparency and choice.”<sup>7</sup> Consumers must receive the same privacy protections across the board – without regard to the type of technology or the kind of company that collects the data. This is important to avoid confusing customers who today use devices, networks, applications, software and operating systems without necessarily understanding the privacy issues created by each.

FTC Staff and NTIA have already initiated efforts to develop a comprehensive framework for consumer privacy protection more generally, and Verizon Wireless supports many of those preliminary recommendations.<sup>8</sup> Importantly, both of these agencies contemplate that the objectives of protecting consumer privacy and preserving innovation may be accomplished through the expansion and ongoing implementation of effective industry best practices and self-regulatory programs. Industry best practices are essential to any federal privacy framework. For example, CTIA’s LBS Best Practices and Guidelines afford industry the flexibility that enables service providers to efficiently

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<sup>7</sup> See *id.* at 6.

<sup>8</sup> See *id.* at 1 (discussing support for many recommendations in FTC Staff, *Protecting Consumer Privacy in an era of Rapid Change: A Proposed Framework for Businesses and Policymakers*, <http://www.ftc.gov/os/2010/12/101201privacyreport.pdf> (Dec. 2010)). The basic policy considerations and concerns Verizon and Verizon Wireless raised in their comments are relevant in the LBS context as well. See also and Comments of Verizon and Verizon Wireless on Department of Commerce Notice of Inquiry in Docket No. 101214614-0614-01 filed Jan. 28, 2011, available at <http://www.ntia.doc.gov/comments/101214614-0614-01/comment.cfm?e=6BFB924F-75DD-4472-94F3-F76DB8EE0376>, and Comments of Verizon and Verizon Wireless on Department of Commerce Notice of Inquiry in Docket No. 100402174-0175-01, filed June 14, 2010, available at <http://www.ntia.doc.gov/comments/100402174-0175-01/comment.cfm?e=4B31DA0D-F243-4083-96E0-4DCB62654CC0>.

and effectively apply baseline privacy principles to a variety of contexts, while also accommodating technological developments and evolving business practices.<sup>9</sup>

Prescriptive regulation, in contrast, can deter innovation, is inherently rigid, and cannot easily accommodate the inevitable evolution in technologies. Such regulation would inhibit and delay the introduction and expansion of new and improved products and services.

### **III. Conclusion**

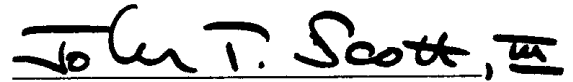
The Bureau's forthcoming report should reflect the fact that wireless ISPs cannot serve as gatekeepers for third party LBS-based applications and services. The diversity of players in the LBS marketplace warrants a uniform policy framework under one agency that provides guidance for the expansion and development of industry best practices applicable to *all* LBS application developers and service providers. Consumers need a simple, uniform consumer privacy framework that reflects their expectations about how their data will be used by all players in the Internet ecosystem. That framework

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<sup>9</sup> See Verizon FTC Comments at 4-6.

should focus on baseline privacy principles, be technology-neutral and utilize industry-developed voluntary codes of conduct.

Respectfully submitted,

A handwritten signature in black ink that reads "John T. Scott, III". The signature is written in a cursive style with a horizontal line underneath the name.

John T. Scott, III  
Robert G. Morse  
VERIZON WIRELESS  
1300 I Street, N.W.  
Suite 400 West  
Washington, DC 20005  
(202) 589-3740

*Attorneys for Verizon Wireless*

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